

In the Supreme Court of the United States

OCTOBER TERM, 1955

JOAN GREENWAY COLLINS, WIDOW, AND CARROLL LEE
COLLINS, MINOR CHILD OF ADOLFUS HENRY COLLINS, DE-
CEASED, PETITIONERS,

vs.

AMERICAN BUSLINES, INC., RESPONDENT EMPLOYER,
THE INDUSTRIAL COMMISSION OF ARIZONA, RESPONDENT
INSURANCE CARRIER.

PETITION FOR REHEARING

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PETITION FOR REHEARING

Comes now Respondent, The Industrial Commission of Arizona, by and through its counsel of record and respectfully petitions this Honorable Court for a rehearing on the subject matter and the decision of the Court announced herein on the 9th day of April, 1956.

GROUND FOR REHEARING

(a) The decision of this Court, announced on April 9, 1956, and the reasons given for said decision embodied in the Court's opinion, are based upon an erroneous conception of the issues tendered herein.

(b) The decision of this Court announced on April 9, 1956, and the reasons for said decision embodied in the Court's opinion, do not construe the reasons given by the Court Below in its decision, nor the issues tendered to the Court below, and therefore the decision herein rendered is not decisive of the issues presented.

STATEMENT

The issues presented to this Court are set forth in Briefs of counsel. Petitioners presented the question as follows:

Whether a state workmen's compensation law may be applied by the state of injury to a motor carrier operator engaged exclusively in interstate commerce where (a) the operator lives in, (b) made his contract of employment in, and (c) is covered by the workmen's compensation act of another state? (Brief of Petitioners, Page 1.)

Respondent herein presented the question as follows:

Whether the workmen's compensation law of the state of the injury *must* be applied to a motor carrier operator in interstate commerce where the claimant is domiciled in, has contracted his hire in, and is fully covered by the compensation laws of, another state. (Brief of Respondent, Page 2.)

As appears from the record herein, the decision of the Court below construed the burden upon interstate commerce to be the double premium requirement affecting employers engaged in commerce between the states, and Respondent herein asserted in Brief (1) that the reason for the decision below rested in the state statutes alone, and (2) that the observations of the Court below in its opinion concerning the federal commerce clause were sound. Petitioners herein contended in Brief that the double premium requirement did not constitute a burden upon the interstate commerce.

The opinion herein announced on April 9, 1956, contains the following language appearing on Page 3 of the initial printed distribution:

"The apparent interest of the Commission is different, namely, that as a result of an award in this case, interstate carriers will seek insurance from a single private insurance carrier capable of giving coverage in all States through which they run. The desire by interstate carriers for such insurance will cause a defection from the state compensation fund, and it is this potential defection which leads to the Commission's claim that the Arizona Act cannot be applicable in an interstate situation. But this claim of a burden upon interstate commerce — the disadvantageous effect upon the state compensation fund — is too intangible and elusive to be deemed a constitutionally disallowable burden."

Clearly, the above conclusions which obviously served as a basis for this Court's decision have no support in the record herein. The interest of Respondent The Industrial Commission of Arizona is not as stated in the above language of the Court, and the issues heretofore tendered and argued do not embody any argument concerning a "defection" from the state compensation fund. Likewise, such matters were not before the Court below.

For the reasons herein given, the decision herein is not decisive of the questions presented to the Court below nor of the question presented to this Court. The matter is of extreme importance to Respondent The Industrial Commission of Arizona, the agency responsible for the administration of the Arizona Workmen's Compensation Act, not only in the instant case, but in policy and practice relating to several hundred others.

Rehearing herein is warranted and necessary in order to clarify the situation and eliminate erroneous impressions regarding the issues tendered herein and the issues tendered to the Court below, and in order that the decision herein might be decisive of the question presented below.

WHEREFORE it is prayed that rehearing be granted herein.

Respectfully submitted:

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April 1956

CERTIFICATE OF COUNSEL

RELATIVE TO GOOD FAITH

I, JOHN R. FRANKS, attorney for Respondent, The Industrial Commission of Arizona herein, and a member of the Bar of the Supreme Court of the United States, do hereby certify that the foregoing Petition for Rehearing filed herein is presented in good faith and that the same is not presented for delay nor for any reason other than to conscientiously present in good faith counsel's honest belief concerning the subject matter of said Petition.

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